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IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO EASTERN DIVISION

UNITED STATES OF AMERICA

: CASE NO. 1:06 CR 565-18

Plaintiff

:

-vs-

BERRY THOMPSON aka Wax : ORDER ACCEPTING PLEA

AGREEMENT AND JUDGMENT AND

Defendant : <u>NOTICE OF HEARING</u>

UNITED STATES DISTRICT JUDGE LESLEY WELLS

This case is before the Court on a Report and Recommendation filed by United States Magistrate Judge Nancy A. Vecchiarelli regarding the change of plea hearing and plea agreement of Berry Thompson which was referred to the Magistrate Judge with the consent of the parties.

On 6 December 2006, the government filed a three-count indictment against Berry Thompson for conspiracy to distribute cocaine base and cocaine in violation of 21 U.S.C. § 846, attempted distribution of cocaine base in violation of 21 U.S.C. § 841(a)(1), § 841(b)(1)(C), and 21 U.S.C. § 846, and possession of five grams or more of cocaine base with intent to distribute in violation of 21 U.S.C. § 841(a)(1) and § 841(b)(1)(B). On 7 December 2006, a hearing was held in which Berry Thompson entered a plea of not guilty before Magistrate Judge Patricia A. Hemann. On 19 June 2007, Magistrate Judge Vecchiarelli received Berry Thompson's plea of guilty and issued a Report and

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Recommendation ("R&R") concerning whether the plea should be accepted and a

finding of guilty entered.

Neither party submitted objections to the Magistrate Judge's R&R in the ten days

after it was issued.

On de novo review of the record, the Magistrate Judge's R&R is adopted. Berry

Thompson is found to be competent to enter a plea. He understands his constitutional

rights. He is aware of the charges and of the consequences of entering a plea. There is

an adequate factual basis for the plea. The Court finds the plea was entered knowingly,

intelligently, and voluntarily. The plea agreement is approved.

Therefore, Berry Thompson is adjudged guilty of the lesser offense in Count 1 in

violation of 21 U.S.C. § 846 and § 841(b)(1)(B) and of Count 30 in violation of 21 U.S.C. §

841(a)(1) and § 841(b)(1)(B)(iii).

Sentencing will be:

13 November 2007 at 3:00 p.m.

Courtroom 9-A

9th Floor, United States District Court

801 West Superior Avenue

Cleveland, Ohio 44113

IT IS SO ORDERED.

/s/Lesley Wells

UNITED STATES DISTRICT JUDGE

Dated: 20 August 2007

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